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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,284	07/03/2003	Robert D. Hutchison	11-931	5800

23117 7590 10/06/2005

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ARLINGTON, VA 22203

EXAMINER

JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,284

Applicant(s)

HUTCHISON, ROBERT D.

Examiner

Cheryl Juska

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/03.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-12, and 15 are rejected under 35 USC 102(b) as being anticipated by *101*

Weaves in 101 Fabrics, pages 5, 22, and 46.

101 Weaves shows fabric samples comprising at least two different colored yarns, one being lighter in color than the other. The darker yarns are predominant and said different colored yarns are spaced apart in selected areas. Said yarns comprise synthetic fibers or cotton fibers. It is noted that applicant defines “soiling-hiding” and “soiling-prone” as descriptions relative to one another. Since the darker yarns will inherently show (i.e., visually distinguishable) soil less than the lighter colored yarns, claims 1, 6-12, and 15 are clearly anticipated.

3. Claims 1, 6-13, 15, 19, and 20 are rejected under 35 USC 102(b) as being anticipated by US 4,877,669 issued to Endrenyi, Jr. et al.

Endrenyi discloses carpet comprising at least two different colored yarns, one being lighter in color than the other (Figure 6). The darker yarns are predominant and said different colored yarns are spaced apart in selected areas (e.g., the lighter colored yarns are separated from each other by darker colored yarns). Said yarns comprise synthetic fibers, such as nylon and

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polyester (col. 2, lines 59-61). It is noted that applicant defines “soiling-hiding” and “soiling-prone” as descriptions relative to one another. Since the darker yarns will inherently show (i.e., visually distinguishable) soil less than the lighter colored yarns, claims 1, 6-13, 15, 19, and 20 are clearly anticipated.

4. Claims 1-6 and 9-13 are rejected under 35 USC 102(b) as being anticipated by KR 9206129 B issued to Hong et al.

Hong discloses an artificial fur comprising long and short pile, wherein the long pile is made from hollow yarns and the short pile is made from trilobal yarns (abstract). The yarns may be polyester, nylon, or acrylic (abstract). The yarns are tufted into a pile fabric (abstract). While Hong fails to explicitly teach the hollow yarns are soil-hiding yarns and the trilobal yarns are soil-prone yarns, it is asserted that the structure of said yarns makes them inherently soil-hiding and soil-prone with respect to each other. Additionally, said yarns will inherently be visually distinguishable when the pile fabric is soiled due to the difference in yarn shape. Furthermore, it is asserted applicant’s recitation to a carpet is met by the structure of the pile fabric of Hong since the pile yarns are on the technical face of the fabric. Therefore, claims 1-6 and 9-13 are anticipated by the cited Hong reference.

5. Claims 1-6 and 8-21 are rejected under 35 USC 102(b) as being anticipated by US 5,413,857 issued to Hagen et al.

Hagen discloses carpet yarn comprising a blend of 51-90% by weight of base fibers, which may be hollow fibers and 10-49% by weight of trilobal fibers (abstract). The fibers may be nylon or polyester (col. 5, lines 36-43).

Thus, Hagen teaches a carpet having pile yarns formed of hollow fibers and yarns formed of multi-lobal fibers. Note applicant's claims do not necessarily exclude the presence of both fibers being in the same yarn. The Hagen carpet has "visually non-distinguishable aesthetic characteristics on the technical face thereof when the carpet is clean" due to all the pile yarns being made from the same yarn blend. Additionally, said hollow fibers and trilobal fibers would be visually distinguishable from one another upon soiling of said carpet due to soil-hiding and soil-prone characteristics that are inherent to the fiber structures. Also note that while one may have to look relatively close to visually distinguish the soiling, applicant's claims do not limit the conditions of the relative phrase "visually distinguishable." Therefore, claims 1-6 and 8-21 are anticipated.

Conclusion

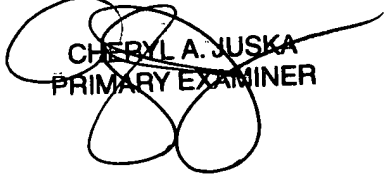
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CHERYL A. JUSKA
PRIMARY EXAMINER

cj
October 3, 2005